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12 Attorneys for Plaintiffs,
13 HUMBOLDT BAYKEEPER
ECOLOGICAL RIGHTS FOUNDATION and
14 CALIFORNIANS FOR ALTERNATIVES TO TOXICS

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17

18 HUMBOLDT BAYKEEPER, et al.,

CASE NO. C 06 4188 CRB

19 Plaintiffs,

20 v.

21 SIMPSON TIMBER COMPANY, et al.,

22 Defendants.
23
24 _____/

STIPULATION BETWEEN PLAINTIFFS
AND NORTH COAST RAILROAD
AUTHORITY RE ACCESS TO RAILROAD
PROPERTY

25 This is a Stipulation between plaintiffs Humboldt Baykeeper ("Baykeeper"), Ecological
26 Rights Foundation ("ERF") and Californians for Alternatives to Toxics ("CATs") on the one
27 hand (collectively "Plaintiffs"), and Defendant North Coast Railroad Authority ("Railroad") on
28 the other (collectively the "Parties to the Stipulation").

STIPULATION RE ACCESS TO
RAILROAD PROPERTY
CASE NO. C 06 4188 CRB

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2 1. This stipulation aims to facilitate implementation of a settlement between
3 Plaintiffs and Defendant Simpson Timber Company ("Simpson"). That settlement (the
4 "Settlement") will be entered by the Court as a Consent Decree.

5 2. Paragraphs 8 through 25 and of the proposed Consent Decree require that
6 Simpson perform an Eastern Drainage Swale Remedial Action plan as described in Exhibit B to
7 the proposed Consent Decree, and that Simpson monitor any residual contamination. A copy of
8 the proposed Consent Decree is attached as Exhibit A to this Stipulation. The proposed Consent
9 Decree also provides that Plaintiffs may observe the remedial actions Simpson takes pursuant to
10 the proposed Consent Decree, and that Plaintiffs may obtain samples of any soil or water that
11 Simpson removes to have analyzed for those chemicals listed in the proposed Consent Decree as
12 Chemicals of Concern ("COCs"). In addition, the proposed Consent Decree provides that under
13 certain specified conditions, Plaintiffs may take their own samples of water from monitoring
14 wells and have those samples analyzed for contaminants.

15 3. The Eastern Drainage Swale, as described and mapped in the proposed Consent
16 Decree is on Humboldt County, California Assessor's Parcel Number ("APN") 003-082-022.
17 This parcel belongs to the Railroad.

18 4. The Parties to the Stipulation therefore seek to facilitate implementation of the
19 Eastern Drainage Swale Remedial Action Plan, as well as any monitoring the Consent Decree
20 provides for, by ensuring that Plaintiffs and Simpson have a right to access APN 003-082-022 to
21 the extent necessary to implement the rights and responsibilities provided in the proposed
22 Consent Decree.

23 The Parties to the Stipulation, by and through their attorneys HEREBY STIPULATE AS
24 FOLLOWS:

25 A. The Railroad hereby grants Simpson, and Simpson's agents and contractors
26 (collectively "Simpson") the right of access APN 003-082-022 to the extent necessary in order
27 for Simpson to implement the Eastern Drainage Swale Remedial Action Plan as described in
28 paragraphs 8 through 25 and Exhibit B of the proposed Consent Decree.

1 B. The Railroad hereby grants Simpson the right to implement the Eastern Drainage
2 Swale Remedial Action Plan as described in paragraphs 8 through 25 and Exhibit B of the
3 proposed Consent Decree.

4 C. The Railroad hereby grants Simpson the right of access to APN 003-082-022 in
5 order to implement any monitoring, including installation of and sampling from groundwater
6 monitoring wells, that is provided for in the proposed Consent Decree.

7 D. The Railroad hereby grants Simpson the right to implement on APN 003-082-022,
8 any monitoring, including installation of and sampling from groundwater monitoring wells, that
9 is provided for in the proposed Consent Decree.

10 E. The Railroad hereby grants Plaintiffs and their agents and contractors (collectively
11 "Plaintiffs") the right of access to APN 003-082-022, to the extent necessary for Plaintiffs to
12 exercise any rights Plaintiffs have under the Consent Decree to observe Simpson's
13 implementation of the Eastern Drainage Swale Remedial Action Plan as described in paragraphs
14 8 through 25 and Exhibit B of the proposed Consent Decree.

15 F. The Railroad further grants Plaintiffs the right to exercise on APN 003-082-022
16 any rights or responsibilities Plaintiffs have to participate in monitoring provided in the proposed
17 Consent Decree, including the taking of soil samples and samples from groundwater monitoring
18 wells.

19 G. Plaintiffs will provide the Railroad with copies of the results of any analysis
20 Plaintiffs have performed on any samples Plaintiffs take of soil or groundwater from APN 003-
21 082-022.

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1 H. This case is hereby dismissed with prejudice as against the Railroad with the
2 Court retaining jurisdiction to enforce the terms of this Stipulation.

3 IT IS SO STIPULATED.

4
5 Dated: February 17, 2007

Christopher a. sproul

6 _____
7 Christopher Sproul
8 Attorney for Plaintiffs Humboldt
9 Baykeeper, Ecological Rights Foundation
10 and Californians for Alternatives to Toxics

11
12 Dated: _____

13 _____
14 Christopher Neary
15 Attorney for Defendant North Coast
16 Railroad Authority

17 APPROVED and SO ORDERED, this ____ day of _____, 2008.

18 UNITED STATES DISTRICT JUDGE

19 By _____
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1 H. This case is hereby dismissed with prejudice as against the Railroad with the
2 Court retaining jurisdiction to enforce the terms of this Stipulation.

3 IT IS SO STIPULATED.

4
5 Dated: _____

Christopher A. Sproul

6 Christopher Sproul
7 Attorney for Plaintiffs Humboldt
8 Baykeeper, Ecological Rights Foundation
9 and Californians for Alternatives to Toxics

10 Dated: *February 15, 2008*

Christopher Deary

11 Christopher Deary
12 Attorney for Defendant North Coast
13 Railroad Authority

14 APPROVED and SO ORDERED, this 21st day of March, 2008.

15 UNITED STATES DISTRICT JUDGE

16
17 By _____

